

REMARKS

Claims 1-21 and 25 are pending in the present application, with claims 1, 3, 7, 8, 15, 16, 19 and 20 having been amended and claim 25 having been added herein.

The undersigned attorney and James David Jacobs ("Applicants' attorneys") would like to again thank the Examiner for his time during the telephone interview on November 13, 2003 and the follow-up discussion on November 14th. Based on the agreements reached during those telephone discussions, Applicants have amended the claims, the specification and the drawings as set forth herein and respectfully submit that the present application is now in a condition for allowance.

The Office Action stated that the request to correct inventorship was deficient because it added new inventors without a letter of consent from the assignee. Therefore, Applicants have submitted concurrently herewith a Statement Under 37 C.F.R. 3.73(b), Consent of Assignee to Remover Inventor and Consent of Assignee to Add Inventors. Accordingly, Applicants respectfully submit that any deficiency has been adequately addressed.

Also, in the Office Action, the proposed drawing corrections filed November 26, 2002 were not approved, as new Figures 7B and 14 were alleged to have introduced new matter and the proposed drawings were filed without a set of copies showing the proposed changes in red ink. Figure 7B is a different view of Figure 7A and adds threaded bar 71 which is described, for instance, in the specification in the paragraph beginning on page 9, line 3, as pointed out to the Examiner during the telephone interview. Applicants' understanding is that the Examiner agreed with this position that new matter was not introduced by Figure 7B. Accordingly, Applicants respectfully request that the new matter rejection of Figure 7B be withdrawn. Regarding the new matter rejection pertaining to new Figure 14, Applicants have cancelled that figure and replaced

it with a new Figure 14 via a Letter With Proposed Drawing Changes depicting --cement column opening[s]-- per the Examiner's suggestion during the telephone interview.

The Letter With Proposed Drawing Changes submitted herewith also amends Figure 7A by adding yoke 88 as shown in Figure 9 by redrawing Figure 7A, as recommended by the Examiner during the telephone interview. Applicants also submit in the Letter copies of the proposed drawing changes filed November 26, 2002 with the proposed changes in red ink. Note, however, that in keeping with current Patent Office procedure, Applicants will defer submission of formal drawings until the application has been deemed allowable.

The Office Action objected to the Amendment filed November 26, 2002 under 35 U.S.C. 132 because it allegedly introduced new matter into the disclosure. In particular, the Office Action objected to the following: (a) "The amendment to the paragraphs beginning at page 6, line 6, and at page 7, line 5, as the guard rails are new matter"; (b) "The amendment to the paragraph beginning at page 8, line 5, as the locking method for dog 70 is new matter"; and (c) "The amendment to the paragraph beginning at page 9, line 3, as it discusses the proposed new drawing figure 7B which includes new matter".

As stated during the telephone interview, Applicants amended "Guide" in the specification to --Guard-- since "Guide" was a typographical error. Even though Applicants respectfully submit that this is not new matter, Applicants have agreed to amend the specification. Specifically, Applicants have deleted the sentence beginning with "Guard" on page 6, line 14 and have deleted the term "guard" on page 7, line 9. Accordingly, Applicants respectfully request that this objection be withdrawn.

The Office Action objected to the amendment to the paragraph beginning at page 8, line 5, as the locking method for dog 70 is being considered new matter. Applicants' attorneys described the operation of dog 70 during the telephone interview as set forth in the specification

and illustrated in the figures, for instance, in Figures 5A and 5B. Specifically, Applicants' attorneys pointed out the following language in the specification as amended by the Amendment mailed November 26, 2002:

The dog 70 is rotatable with respect to its housing 72. The dog 70 is shown in a locked position resting on a stop plate 78 with a locking pin 76 inserted through pin 51, as shown in FIG. 5A, to lock the dog 70 to its housing 72. To move the dog 70 to an unlocked position, the pin 76 is and the pin 51 are removed and the dog 70 is tilted back using a handle 74 until the dog rests on a stop plate 80.

Page 8, lines 5-10. Applicants respectfully submit that new matter was not added to the original disclosure.

The original disclosure describes dog 70 being operable for tilting back after pin 76 is removed, as set forth in the above-enumerated paragraph quoted from the specification. Further, Figures 5A and 5B as originally filed illustrate dog 70 having locking pin 76. In the original disclosure when referring to locking pin 76, Applicants were referring to two pins shown in Figure 5A – a first pin depicted as passing through dog 70 and a second pin depicted as passing vertically through the first pin. Noting that one reference numeral was referring to the two pins, Applicants amended the drawings by adding a reference numeral to Figure 5A for the first pin shown as passing through dog 70 and added language to the specification consistent with what was illustrated in Figure 5A. Based on the original disclosure, a person having ordinary skill in the art would understand that pin 76 and pin 51 would have to be removed for such a tilting operation or rotation to occur about pin 52. Accordingly, Applicants respectfully request that this objection be withdrawn.

Regarding the objection to the amendment to the paragraph beginning at page 9, line 3, Applicants respectfully request that the new matter rejection be withdrawn, as Applicants' understanding was that the Examiner agreed with Applicants' attorneys' position during the telephone interview that new matter was not added.

The Office Action objected to the drawings under 37 C.F.R. 1.83(a) because the drawings must show every feature of the invention specified in the claims. Specifically, the Office Action stated that the concrete structure with holes of claim 21 must be shown or the features must be cancelled from the claims.

Per the Examiner's suggestion during the telephone interview, Applicants have cancelled Figure 14 and replaced it with a new Figure 14 via a Letter With Proposed Drawing Changes depicting --cement column opening[s]--. Accordingly, Applicants respectfully request that the objection to the drawings be withdrawn.

The Office Action objected to the specification under 35 U.S.C. 112, first paragraph, as failing to provide an adequate description of the claimed invention. More particularly, the Office Action stated that the structures for clamping foot members 25 and for clamps 88 are not understood and that the original disclosure for the structure of the dogs 70 and dogs 80 is not understood.

During the interview, Applicants' attorneys explained the structures for clamping foot members 25 and for clamps 88 by referring to page 8, line 19 to page 9, line 7 and Figures 7A, 7B and 8-10. The Examiner suggested during the interview that Figure 7A be amended by adding yoke 88 as shown in Figure 9 to illustrate what is described in the specification. Hence, Applicants have submitted concurrently herewith a Letter With Proposed Drawing Changes amending Figure 7A. Accordingly, Applicants respectfully request that this rejection be withdrawn.

Also, during the interview, Applicants' attorneys explained the structure of dogs 70 and dogs 80 by referring to page 8, lines 5-10 of the specification and Figures 5A and 5B. Based on these discussions and the remarks set forth herein, Applicants respectfully request that this objection be withdrawn.

Claims 1-5 and 7-21 were rejected under 35 U.S.C. 112, first paragraph, because the dog structures are inoperative, and a climbing frame with inoperative dogs cannot function. Applicants respectfully request that this rejection be withdrawn pursuant to the discussions during the telephone interview and the remarks set forth herein.

Claims 7-14 and 16-18 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Office Action stated that in claim 7 it is unclear as to how the applicant is considering the lower frame 36 as having a larger diameter than the upper frame 30. As pointed out by the Applicants' attorneys during the telephone interview, the "lower frame" recited in claims 7 and 16 refers to the outer frame shown, for instance, in Figure 3. In order to keep the language in the specification and claims uniform, Applicants have agreed to amend claims 7 and 16 herein by changing "lower" to --outer--.

Accordingly, Applicants respectfully request that the rejection of claims 7-14 and 16-18 be withdrawn.

The Office Action also stated that claim 8 was rejected under 35 U.S.C. 112, first paragraph, because it is unclear how the support stubs of line 4 are different from the support stubs of claim 1. Applicants' attorneys explained during the interview that "a plurality of support stubs", as recited in claim 1, and "a plurality of support stubs", as recited in claim 8, are different support stubs hence the reason for no antecedent basis in claim 8. In any event,

Applicants have agreed to amend claim 8 herein by adding --additional-- before “support stubs” per the Examiner’s suggestion.

Claims 1-5, 8-10 and 15 were rejected under 35 U.S.C. 102(b) as being anticipated by GB 1,173, 524 (“GB ‘524”). GB ‘524 was discussed with the Examiner during the interview. As stated during that interview, Applicants respectfully submit that independent claims 1 and 15 are not anticipated by GB ‘524 for at least the reasons set forth below.

Applicants respectfully submit that GB ‘524 does not teach at least the following:

- “a plurality of support stubs with each support stub attached to one of a plurality of respective vertical columns of a structure under construction, wherein the basket rests on the support stubs”, as recited in amended claim 1; and
- “a plurality of first support stubs with each first support stub mounted to one of a plurality of respective vertical columns of a structure under construction, wherein each first outrigger foot rests on a respective first support stub”, as recited in amended claim 15.

The Office Action relied on angle-irons 41 at the corner of the tower element in GB ‘524 for teaching a plurality of support stubs. Angle-irons 41, however, are part of the tower crane itself and hence are not a plurality of support stubs attached to or mounted to a structure under construction, as set forth in amended claims 1 and 15.

Accordingly, Applicants respectfully request that the rejection of amended independent claims 1 and 15 be withdrawn.

Claims 2-5 and 8-10 depend from and further limit claim 1, and for at least the reasons stated above in connection with claim 1, are believed to not be anticipated by GB ‘524.

Claims 1-5, 7-10, 15-18 and 20 were rejected under 35 U.S.C. 102(b) as being anticipated by GB 1,456,435 (“GB ‘435”). GB ‘435 was discussed with the Examiner during the interview.

As stated during that interview, Applicants respectfully submit that independent claims 1, 15 and 20 are not anticipated by GB '435 for at least the reasons set forth below.

Applicants respectfully submit that GB '435 does not teach at least the following:

- “a plurality of support stubs with each support stub attached to one of a plurality of respective vertical columns of a structure under construction, wherein the basket rests on the support stubs”, as recited in amended claim 1;
- “a plurality of first support stubs with each first support stub mounted to one of a plurality of respective vertical columns of a structure under construction, wherein each first outrigger foot rests on a respective first support stub”, as recited in amended claim 15; and
- “a plurality of upper support stubs with each upper support stub mounted to one of a plurality of respective vertical columns of the structure, the upper support stubs supporting the second basket”, as recited in amended claim 20.

The Office Action relied on sockets 7 in GB '435 for teaching a plurality of support stubs. Sockets 7, however, are part of the tower crane itself and hence are not a plurality of support stubs attached to or mounted to a structure under construction, as set forth in amended claims 1, 15 and 20.

Accordingly, Applicants respectfully request that the rejection of amended independent claims 1, 15 and 20 be withdrawn.

Claims 2-5 and 7-10 depend from and further limit claim 1 and claims 16-18 depend from and further limit claim 15, and for at least the reasons stated above in connection with claims 1 and 15, are believed to not be anticipated by GB '435.

Claims 19-21 were rejected under 35 U.S.C. 102(b) as being anticipated by DE 23 12 509 (“DE '509”). DE '509 was discussed with the Examiner during the interview. As stated during

that interview, Applicants respectfully submit that independent claims 19, 20 and 21 are not anticipated by DE '509 for at least the reasons set forth below.

Applicants respectfully submit that DE '509 does not teach at least the following:

- “a plurality of first support stubs with each first support stub mounted to one of a plurality of respective vertical columns of a structure under construction, wherein each foot rests on and is in compression with a respective first support stub”, as recited in amended claim 19;
- “a plurality of upper support stubs with each upper support stub mounted to one of a plurality of respective vertical columns of the structure, the upper support stubs supporting the second basket”, as recited in amended claim 20; and
- “a plurality of support holes disposed on columns of the concrete structure with each support hole receiving a respective outrigger foot”, as recited in claim 21.

The Office Action relied on element 66 in DE '509 for teaching a plurality of support stubs. Element 66, however, appears to be a pin or the like which becomes part of the tower crane itself when inserted and hence is not a plurality of support stubs attached to or mounted to a structure under construction, as set forth in amended claims 19 and 20. Further, element 66 appears to be located along horizontal members, as shown in Fig. 10 of DE '509.

Claims 21 was rejected because DE '509 was asserted as teaching a “basket ha[ving] outriggers (26) and feet (pins 66) which engage holes in the concrete structure”. Even assuming that Fig. 10 of DE '509 illustrates holes in a concrete structure, such holes are not “disposed on columns”, as recited in amended claim 21. Rather, the holes appear to located along horizontal members. Moreover, these holes do not “receiv[e] a respective outrigger foot”, as recited in amended claim 21. Rather, the holes appear to receive element 66 which resembles a pin or the like.

Accordingly, Applicants respectfully request that the rejection of independent claims 19, 20 and 21 be withdrawn.

Claims 1-4, 8-15, 20 and 21 were rejected under 35 U.S.C. 102(b) as being anticipated by DE 2,2042, 338 ("DE '338"). The Examiner suggested during the telephone interview that we have DE '338 translated into English since the Examiner was unwilling to concede its irrelevance solely based upon a review of the drawings. As a result, Applicants file concurrently herewith a certified copy of the translation in an Information Disclosure Statement. After evaluating the translation, claims 1, 15, 20 and 21 clearly are not anticipated by DE '338 for at least the reasons set forth below.

Applicants respectfully submit that DE '338 does not teach at least the following:

- "a plurality of support stubs with each support stub attached to one of a plurality of respective vertical columns of a structure under construction, wherein the basket rests on the support stubs", as recited in amended claim 1;
- "a plurality of first support stubs with each first support stub mounted to one of a plurality of respective vertical columns of a structure under construction, wherein each first outrigger foot rests on a respective first support stub", as recited in amended claim 15;
- "a plurality of upper support stubs with each upper support stub mounted to one of a plurality of respective vertical columns of the structure, the upper support stubs supporting the second basket", as recited in amended claim 20; and
- "a plurality of support holes disposed on columns of the concrete structure with each support hole receiving a respective outrigger foot", as recited in claim 21.

The Office Action relied on floor projections 3a in DE '338 for teaching a plurality of support stubs. Floor projections 3a, however, are not attached to or mounted to vertical columns

of a structure under construction, as set forth in amended claims 1, 15 and 20. Rather, floor projections 3a are located on floors 3 and protrude into building shaft 2. *See* translation at page 4, ¶7 and page 5, ¶4.

Claims 21 was also rejected over DE '338. DE '338, however, does not teach "a plurality of support holes disposed on columns of the concrete structure with each support hole receiving a respective outrigger foot", as recited in claim 21. Rather, DE '338 teaches climbing frame 26 resting on floor projections 31. Further, DE '338 is devoid of any teaching of concrete columns and support holes disposed therein. *See* translation at page 5, ¶4.

Accordingly, Applicants respectfully request that the rejection of independent claims 1, 15, 20 and 21 be withdrawn.

Claims 2-4 and 8-14 depend from and further limit claim 1, and for at least the reasons stated above in connection with claim 1, are believed to not be anticipated by DE '338.

Claims 1, 2, 4, 7-10 and 15-20 were rejected under 35 U.S.C. 102(b) as being anticipated by DE 78 17 700 ("DE '700"). DE '700 was discussed with the Examiner during the interview. As stated during that interview, Applicants respectfully submit that independent claims 1, 15, 19 and 20 are not anticipated by DE '700 for at least the reasons set forth below.

Applicants respectfully submit that DE '700 does not teach at least the following:

- "a plurality of support stubs with each support stub attached to one of a plurality of respective vertical columns of a structure under construction, wherein the basket rests on the support stubs", as recited in amended claim 1;
- "a plurality of first support stubs with each first support stub mounted to one of a plurality of respective vertical columns of a structure under construction, wherein each first outrigger foot rests on a respective first support stub", as recited in amended claim 15;

- “a plurality of first support stubs with each first support stub mounted to one of a plurality of respective vertical columns of a structure under construction, wherein each foot rests on and is in compression with a respective first support stub”, as recited in amended claim 19; and
- “a plurality of upper support stubs with each upper support stub mounted to one of a plurality of respective vertical columns of the structure, the upper support stubs supporting the second basket”, as recited in amended claim 20.

The Office Action relied on elements 50’ in DE ‘700 for teaching a plurality of support stubs. Elements 50’, however, are part of the tower crane itself and hence are not a plurality of support stubs attached to or mounted to a structure under construction, as set forth in amended claims 1, 15, 19 and 20.

Accordingly, Applicants respectfully request that the rejection of amended independent claims 1, 15, 19 and 20 be withdrawn.

Claims 2, 4 and 7-10 depend from and further limit claim 1 and claims 16-18 depend from and further limit claim 15, and for at least the reasons stated above in connection with claims 1 and 15, are believed to not be anticipated by DE ‘700.

Claim 21 was rejected under 35 U.S.C. 102(b) as being anticipated by JP 2001-10780 (“JP ‘780”). JP’ 780 was discussed with the Examiner during the interview. The figures and Abstract of JP ‘780 were discussed with the Examiner during the interview, as we do not have an English language translation. The Examiner and we agreed that JP ‘780 was not applicable.

Accordingly, Applicants respectfully request that the rejection of independent claim 21 be withdrawn.

Additionally, Applicants have added new claim 25 to further define the scope of the present application and believe this claim is also allowable for at least the reasons enumerated herein.

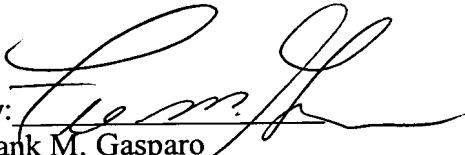
This communication is believed to be fully responsive to the Office Action and every effort has been made to place the application in condition for allowance. The claims, in view of the foregoing explanation, are believed to be patentable over the prior art, and a favorable Office Action is hereby earnestly solicited.

If a telephone interview would be of assistance in advancing prosecution of the subject application, Examiner is requested to telephone the number provided below.

Respectfully submitted,

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By:


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